

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>SUE E. CHALOUX</b> Claimant	)	
VS.	)	
<b>AMERICAN RED CROSS</b>	)	Docket No. 162,499
Respondent	)	
AND	)	
<b>NATIONAL UNION FIRE INSURANCE COMPANY</b>	)	
Insurance Carrier	)	
AND		
<b>SUE E. CHALOUX</b>	)	
Claimant	)	
VS.	)	
<b>SHAWNEE COUNTRY CLUB</b>	)	Docket No. 195,993
Respondent	)	
AND	)	
<b>ST. PAUL FIRE &amp; MARINE INSURANCE CO.</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appeals from a February 10, 1995, Preliminary Hearing Order entered by Administrative Law Judge James R. Ward denying benefits.

**ISSUES**

This appeal arises out of the Administrative Law Judge's denial of claimant's request for medical treatment and payment of medical bills in Docket No. 162,499 or, in the alternative, payment for medical treatment, payment of medical bills, and payment of temporary total disability benefits in Docket No. 195,993.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record and the briefs submitted by the parties, the Appeals Board finds that this proceeding should be remanded to the Administrative Law Judge for additional findings.

In his Order of February 10, 1995, the Administrative Law Judge denied benefits but did not make findings or otherwise state the reasons for the denial. Under K.S.A. 44-534a, the Appeals Board has the authority and the jurisdiction to review preliminary findings which address disputed issues of:

- (1) Whether the employee suffered an accidental injury;
- (2) Whether the injury arose out of and in the course of the employee's employment;
- (3) Whether notice is timely given or a claim is timely made; and
- (4) Whether certain defenses apply.

These issues are deemed jurisdictional. Before the Appeals Board can exercise jurisdiction over a preliminary hearing matter, there must be a dispute involving one of those issues enumerated in K.S.A. 44-534a, or there must be a showing that the Administrative Law Judge exceeded his jurisdiction as required by K.S.A. 44-551. The record and Order with which the Appeals Board is presented in this case make a jurisdictional finding impossible.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that this proceeding should be, and hereby is, remanded to the Administrative Law Judge for additional findings or a statement explaining the basis for the denial of benefits. The Appeals Board does not retain jurisdiction over this matter and the parties must file a new Application for Review and follow the appropriate procedures, should they be aggrieved, after they receive the additional findings and order from the Administrative Law Judge.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Beth Regier Foerster, Topeka, Kansas

C. Keith Sayler, Topeka, Kansas  
Glenda L. Cafer, Topeka, Kansas  
James R. Ward, Administrative Law Judge  
George Gomez, Director